

The Hon. Benjamin H. Settle

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

\$119,031 IN UNITED STATES
CURRENCY, AND ANY ACCRUED
INTEREST;

\$27,161 IN UNITED STATES CURRENCY,
AND ANY ACCRUED INTEREST; and

\$21,180 IN UNITED STATES CURRENCY,
AND ANY ACCRUED INTEREST,

Defendants.

CASE NO. CV23-5444-BHS

**STIPULATED MOTION TO STAY
CIVIL FORFEITURE PROCEEDING**

NOTE ON MOTION CALENDAR:
July 13, 2023

I. INTRODUCTION AND RELIEF REQUESTED

The United States and Third-Party Claimant Emmanuel Hunter, by and through their respective undersigned counsel, respectfully and jointly move, pursuant to 18 U.S.C. § 981(g), to stay this civil forfeiture proceeding pending resolution at the trial court level of the related criminal case, *United States v. Hunter*, CR22-5345-DGE (the “Related Criminal Case”), currently before Chief Judge David G. Estudillo.

II. FACTUAL AND PROCEDURAL BACKGROUND

On or about November 16, 2022, law enforcement executed warrants to search for and seize evidence of drug trafficking (the “Warrants”). *See* Western District of Washington Case Numbers MJ22-5248-01, -02, and -03. Specifically, the Warrants authorized searches of:

- a. 429 2nd Ave. W, Apartment 601, Seattle, Washington;
- b. 7630 180th St. E, Puyallup, Washington; and
- c. Claimant Hunter’s person.

Law enforcement seized the above-captioned property (“Subject Currency”) during execution of the Warrants.

On December 14, 2022, a grand jury returned a nine-count indictment against Claimant Hunter alleging certain drug distribution, drug possession, and firearm possession offenses.

After the Subject Currency was seized, the United States Drug Enforcement Administration (DEA) initiated administrative forfeiture proceedings against it. In the administrative process, DEA received Claimant Hunter’s claim to the Subject Currency. DEA referred Hunter’s claim to the United States Attorney’s Office for judicial resolution. On May 15, 2023, the United States identified the Subject Currency as property that may be forfeitable in the event Claimant Hunter is convicted of one or more charges in the Related Criminal Case. *See United States v. Hunter*, CR22-5345-DGE, Dkt. No. 28.

Separately on May 15, 2023, the United States commenced this civil forfeiture proceeding against the Subject Currency, alleging that it is subject to forfeiture under 21 U.S.C. § 881(a)(6) as proceeds from the sale of controlled substances. The United States gave notice of the commencement of this forfeiture proceeding to persons and entities believed to have an interest in the Subject Currency, including Claimant Hunter.

1 On or about June 23, 2023, Claimant Hunter filed a claim to the Subject Currency.
 2 Dkt. Nos. 6–8. No other parties have come forward to assert a claim to the Subject
 3 Currency.

4 Counsel for the United States and Claimant Hunter have consulted with each
 5 other. By jointly filing this stipulated motion, the United States and Claimant Hunter do
 6 not waive any rights, objections, claims, or defenses they have with respect to this civil
 7 forfeiture proceeding.

8 **III. AUTHORITY AND ARGUMENT**

9 **A. Proceeding with this Civil Forfeiture Case Will Impair the Parties’ Abilities** 10 **to Litigate the Related Criminal Case**

11 The United States and Claimant Hunter jointly ask the Court to stay this civil
 12 forfeiture case pursuant to 18 U.S.C. § 981(g) as proceeding with this case will likely
 13 impair the parties’ respective abilities to litigate the Related Criminal Case currently
 14 pending before Chief Judge Estudillo. Section 981(g)(1) states: “Upon motion of the
 15 United States, the court shall stay the civil forfeiture proceeding if the court determines
 16 that civil discovery will adversely affect the ability of the government to conduct a
 17 related criminal investigation or the prosecution of a related criminal case.” The United
 18 States asserts, and Claimant Hunter does not contest, that civil discovery in this case will
 19 adversely affect the prosecution of the Related Criminal Case.

20 Section 981(g)(2) similarly states: “Upon motion of a claimant, the court shall stay
 21 the civil forfeiture proceeding with respect to that claimant if the court determines that –
 22 (A) the claimant is the subject of a related criminal investigation or case; (B) the claimant
 23 has standing to assert a claim in the civil forfeiture proceeding; and (C) continuation of
 24 the forfeiture proceeding will burden the right of the claimant against self-incrimination
 25 in the related investigation or case.” Claimant Hunter is a defendant in the Related
 26 Criminal Case. The United States sent notice of this civil forfeiture proceeding to
 27 Claimant Hunter and does not dispute his standing to assert a claim. Finally, Claimant

1 Hunter asserts, and the United States does not contest, that continuation of this civil
 2 forfeiture proceeding will burden Claimant Hunter's right against self-incrimination in
 3 the Related Criminal Case.

4 Section 981(g)(3) contemplates the possibility of a protective order limiting
 5 discovery in lieu of a stay. The United States and Claimant Hunter further stipulate,
 6 however, that a protective order would be insufficient to protect each party's interests
 7 without unfairly limiting the ability of the opposing party to pursue this civil case.

8 **B. Extension of the Period to File a Claim for Other Potential Third-Party**
 9 **Claimants Is Appropriate**

10 If the Court should enter the proposed Order staying this civil forfeiture
 11 proceeding, and as it concerns the persons and entities to whom the United States has
 12 already provided direct notice of this proceeding, *see* Dkt. No. 3, and interested parties
 13 not listed on the Notice of Complaint, *id.*, the parties respectfully request that the Court
 14 grant those persons and entities an additional 35 days, from the date the Court lifts the
 15 proposed stay, to file a claim in this proceeding.

16 **IV. CONCLUSION**

17 For the reasons above, the parties respectfully request that the Court enter an order
 18 staying this civil forfeiture proceeding until the conclusion of the Related Criminal Case
 19 at the trial court level and extending the period to file a claim for those interested parties
 20 who have received notice of this proceeding for an additional 35 days from the date the
 21 Court lifts the stay. The parties agree that the time for Claimant Hunter to file an answer
 22 or other responsive pleading to the Complaint pursuant to Rule G(5)(b) of the
 23 Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture shall be
 24 tolled pending the Court's resolution of this motion. The parties further recommend that
 25 in the event the stay remains in effect, the Court require the parties to submit a status
 26 report within six months of the entry of the Court's Order granting a stay.

27 //

1 A proposed order is submitted herewith.

2 DATED this 13th day of July, 2023.

3 Respectfully submitted,

4 TESSA M. GORMAN

5 Acting United States Attorney

6 s/Jehiel I. Baer

7 JEHIEL I. BAER

8 Assistant United States Attorney

9 United States Attorney's Office

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15 *Counsel for the United States*

16 s/Joanna Martin

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24 Joanna.Martin@fd.org

25 *Counsel for Claimant Emmanuel Hunter*

26 ** Permission to e-sign and e-file obtained*

27 *via email on July 12, 2023.*

s/Richard L. Pope, JR.

RICHARD L. POPE, JR.

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Counsel for Claimant Emmanuel Hunter

** Permission to e-sign and e-file obtained*

via email on July 12, 2023.

CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2023, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system.

I hereby further certify that on July 13, 2023, I provided direct notice of the foregoing, via U.S. Postal Service Priority Mail, to the following individuals, to whom the United States provided direct notice of the Verified Complaint for Forfeiture *in Rem*, at the addresses listed below:

Emmanuel Hunter
c/o Joanna Martin
Federal Public Defender's Office
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Tacoma, Washington 98402

Emmanuel Hunter
c/o Richard L. Pope, Jr.
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15 13323 Lake City Way NE
16 Seattle, WA 98125-4430

17 C [REDACTED] C [REDACTED]
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23 s/Hannah G. Williams
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The Hon. Benjamin H. Settle

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Defendants.

CASE NO. CV23-5444-BHS

**ORDER GRANTING STIPULATED
MOTION TO STAY CIVIL
FORFEITURE PROCEEDING**

THIS MATTER having come before the Court on a stipulated motion of the United States and Claimant Emmanuel Hunter, pursuant to 18 U.S.C. §§ 981(g)(1) and (g)(2), to stay this proceeding pending completion of a related criminal case, and the Court having considered the matter and good cause appearing therefore;

IT IS HEREBY ORDERED that the parties' stipulated motion to stay this proceeding pursuant to 18 U.S.C. §§ 981(g)(1) and (g)(2) is GRANTED, and this matter

1 is hereby stayed pending resolution at the trial court level of the related criminal case,
2 *United States v. Hunter*, CR22-5345-DGE, or until further order of the Court.

3 IT IS FURTHER ORDERED that the time for Claimant Hunter to file an answer
4 or other responsive pleading to the Complaint pursuant to Rule G(5)(b) of the
5 Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture is tolled
6 from the date of the filing of the Stipulated Motion to Stay Civil Forfeiture Case through
7 the date of the entry of this Order.

8 IT IS FURTHER ORDERED that any party may request a lifting of the stay at any
9 time pursuant to a written motion.

10 IT IS FURTHER ORDERED that the persons and entities to whom the United
11 States provided direct notice of this proceeding, and interested parties who did not
12 receive direct notice, shall have an additional 35 days, from the date the Court lifts the
13 proposed stay, to file a claim in this proceeding.

14 IT IS FURTHER ORDERED that, in the event the related criminal case has not
15 been completed, the parties shall file a status report within six months of entry of this
16 Order.

17 DATED this 13th day of July, 2023.

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19
20
21


BENJAMIN H. SETTLE
United States District Judge

22 Presented by:

23 s/Jehiel I. Baer

24 JEHIEL I. BAER

25 Assistant United States Attorney

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